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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,369	11/14/2003	Peter M. Beasley	NETW:1000	9152
34725	7590	04/18/2006	EXAMINER	
CHALKER FLORES, LLP			RIMELL, SAMUEL G	
2711 LBJ FRWY			ART UNIT	
Suite 1036			PAPER NUMBER	
DALLAS, TX 75234			2164	

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,369

Applicant(s)

BEASLEY, PETER M.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al. (United States Pre-Grant Publication US 2004/0225676).

Claim 1: FIG. 10 illustrates a computer (102) and user interface (106) coupled to the computer. FIGS. 1A-1 through 1A-2 illustrate a data structure that forms the basis of a database (paragraph 0082 “Microsoft Access” is a database system). The database has a plurality of records (each block, such as 17, is a record). Each record has a unique identifier (such as “lighting” for record 17) and a plurality of data fields associated with that record. Each field represents assets or asset related information for a building. The data structure of FIGS. 1A-1 and 1A-2 are closed loop in the sense that they are linked together. They are hierarchical in the sense that they are organized with a main header (such as lighting 17) which are associated with subcategories.

Various business rules exist within the system. One set of business rules is the relationship between the blocks, which is illustrated by the lines in FIGS. 1A-1 and 1A-2. Another set of business rules is programming which runs the user interfaces of FIGS. 2A-9. These programming rules will dictate how the information is used (i.e. by presenting it to a user for viewing).

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A computer program, such as that shown in FIGS. 2A through 9A utilizes the data structure.

Claim 2: The data fields shown in represent attributes of sub-elements, such as compressors and heat stages 23, 25 which are sub-elements of HVAC.

Claim 3: Each of the items in claim 3 are optionally recited (“or” at end of claim). The claim is thus limited to only one of the items. FIG. 1A-1 illustrates a data item for operating characteristics of a compressor (“full load amps”).

Claim 4: Each of the items of claim 4 are optionally recited (“or” at end of claim). The claim is thus limited to only one of the items. FIG. 1A-1 illustrates a data item for places (“location/zone/department”).

Claim 5: The place is a location (“location/zone/department”).

Claim 6: Each of the items of FIG. 6 are optionally recited (“or” at end of claim). The claim is thus limited to only one of items. FIG. 1A-2 illustrates a data structure for circuits (“circuits” 33).

Claim 7: FIG. 1A-1 is data pertaining to resource allocation, showing the “location/zone/department” of lighting and HVAC systems. The other options beyond resource allocation are optionally recited (“one or more” in line 2).

Claim 8: Any of the information in FIGS. 1A-1 or 1A-2 constitute operational documentation. The other options beyond operational documentation are optionally recited (“or” statement in line 3).

Claim 9: Any of the information in FIGS. 1A-1 and 1A-2 constitute purchase records, since the information describes equipment being supplied for new building construction, which inherently must be purchased.

Claim 10: Any of the information shown in FIGS. 1A-1 or 1A-2 is readable as life cycle information, since any of this information is pertinent during the life cycle of the equipment described.

Claim 11: Each of the business rules in claim 11 are optionally recited (“or” clause in claim). Johnson et al. discloses a business rule that dictates that the information in the data field is used for the business goal of energy management (paragraph 0032, lines 1-3).

Claim 12: See remarks for claim 1. Note that the database of records can be updated (Step 40 in FIG. 2; step 230 in FIG. 15; step 310 in FIG. 16).

Claim 13: FIG. 2 is directed to the collection of information and uploading of information to create the database.

Claim 14: Reference is made to FIGS. 1A-1 and 1A-2. The building in which the equipment is contained in the boundary of the infrastructure. Assets within the building include lighting and HVAC. Items related to the assets include building controls and compressors. Users of the data are identified through user interfaces which identify a user (FIG. 2A: the user of the information can either be the “surveyor” or the particular job site identified by site name). Each individual row in FIGS. 1A-1 and 1A-2 constitutes an attribute. One business rule is that the data pertains to building equipment are related in the hierarchical form shown in FIGS. 1A-1 and 1A-2, as illustrated by the lines in the figures. Another business rule is programming which defines the user interfaces of FIGS. 2A-9. These rules will dictate how the information is used

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(i.e. by presenting it to a user in a user interface). The records are created (FIG. 2) and stored in a database (paragraph 0082 "Microsoft Access").

Claim 15: Blocks such as compressors 23 or heat stages 25 are sub-elements for the assets. The business rule is that the data pertains to building equipment and is arranged in hierarchical form.

Claim 16-17: FIG. 2A identifies a building manager (50) who would be a person who uses the assets along with information about the assets.

Claim 18: FIG. 9A illustrates a display report.

Claim 19: FIG. 21 illustrates a form that identifies a managing agency (a store, top left corner) and goals for the managing agency (identification and repair of leaks).

Claim 20: See remarks for claim 1. Note that reports can be generated, such as that shown in FIG. 9A. Data in the database can be updated (step 40 in FIG. 2; step 230 in FIG. 15; and step 310 in FIG. 16).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. Pre-Grant Publication 2004/0225676).

Claim 21: Johnson et al. differs in that the database does not define the presence of non-functional descriptive material in the form of procurement, usage, modification, decommission and salvage information. However, usage of non-functional descriptive material in a database is

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considered to have been obvious to one of ordinary skill in the art and does not create a patentable distinction (*In re Gulack* 703 F.2d 1381, 1385, 217USPQ 401, 404 Fed. Cir. 1983. “when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability.”). The recitation of information in claim 21 is merely recorded data. It is not invoked or used in any way and thus does not achieve any functionally. Accordingly, it is non-functional descriptive material, and as such, does not create a patentable distinction as per *Gulack*.

Remarks

Applicant's arguments are primarily directed to those features which have been recited within claims 1, 12 and 20. Applicant argues that Johnson et al defines business goals as opposed to business rules. This argument is not correct. Johnson et al. defines various features which define business rules. One such set of business rules are the relationships between the blocks of data, defined in FIGS. 1A-1 and 1A-2. These are illustrated by the lines between the blocks. Another set of business rules are the programming instructions of the system, such as the programming which creates the user interfaces.

It is noted that the term “business rules” is an extraordinarily broad term and implies wide varieties of relationships and constraints. If applicant's business rules are substantively different than those referred to in Johnson et al., then those rules should be defined with greater detail within the claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.



Sam Rimell
Primary Examiner
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